CRP 491/2006
BEFORE

THE HON'BLE MR.JUSTICE HN SARMA

Heard Mr S S Sarma, learned counsel for defendant/petitioner. Also heard Mr S P Roy, learned counsel for the plaintiff/respondent.

The challenge made in this revision petition is the order dated 31.10.2006, passed by the learned Civil Judge (Junior Division) No 3, Guwahati in Title Suit No 114/03. By this order, the learned trial Court though allowed the official witnesses to be examined by the defendants but restrained him from examination of the records of the P P Case No 164/02-03. This restriction was made by the learned trial Court on the count that on earlier occasion on an application filed by the defendant/petitioner to call for the records of the said P P Case No 164/02-03, the same was rejected on 11.4.2006.

While passing the impugned order, in fact, the learned trial Court could not have restricted the witness to confuse himself on the statements without connecting the records and the learned trial Court is not empowered to put such restriction. May be the prayer for calling for the records was refused but that will not preclude the official witness to examine the connected records, in as much as, an official witness is to depose on the basis of official documents and materials such deposition is to be based on the records mentioned in the office and in the instant case, such record is the records of P P Case No 164/02-03. The learned trial Court passed the impugned order on a total misconception of law, relating to privilege of a witness as is laid down by law is laid down and is to be answerable by the witnesses.

In that view of the discussion made above in exercise of the supervisory jurisdiction under Article 227 of the Constitution of India, I set aside the impugned order. The said witnesses will be entitled to examine the connected record. Accordingly, this revision petition stands allowed.

The earlier interim order stands vacated.